

**To:** Boydston, Michael[Boydston.Michael@epa.gov]  
**From:** Mylott, Richard  
**Sent:** Mon 12/15/2014 6:52:09 PM  
**Subject:** FW: Riverton Ranger: EPA asked state to assume Pavillion probe

Mike- fyi, meant to cc you on this last week.

**From:** Mylott, Richard  
**Sent:** Thursday, December 11, 2014 5:20 PM  
**To:** McGrath, Shaun (McGrath.Shaun@epa.gov); Card, Joan; Hestmark, Martin; Beeler, Cindy  
**Cc:** Oberley, Gregory; Schmit, Ayn; Smith, Paula; McClain-Vanderpool, Lisa  
**Subject:** Riverton Ranger: EPA asked state to assume Pavillion probe

All-- I wanted to make you aware of below, which I just noticed online from the Riverton paper, posted Dec 9. This article is the result of email exchanges that occurred several months ago with the reporter, as well as a brief conversation that is inelegantly excerpted at the end of the article. The way the reporter chose to characterize our interaction is intentional, the result of his frustration with my emphasis on previous statements we have released on this issue in responding to his questions. Its worth noting that the reporter declined to use those statements in the reporting below.

Rich x 6654

[http://dailyranger.com/story.php?story\\_id=15662&headline=EPA-asked-state-to-assume-Pavillion-probe](http://dailyranger.com/story.php?story_id=15662&headline=EPA-asked-state-to-assume-Pavillion-probe)

## **EPA asked state to assume Pavillion probe**

**Dec 9, 2014 - By Eric Blom, Staff Writer**

*The federal agency's initial 2011 report was the first time a government study connected fracking to contaminated groundwater.*

Documents and interviews with state officials show the Environmental Protection Agency asked Wyoming to take over investigating whether hydraulic fracturing

contaminated groundwater near Pavillion. The full series of events is difficult to verify until more records are made public and because EPA officials have declined to comment much on the situation.

Examining groundwater in the Pavillion field east of the eponymous town, now operated by Canada-based Encana Oil and Gas, continues to be an issue for state, the fields operator and local residents. Just last week, Wyoming Oil and Gas Conservation Commission released a draft report on a piece of the now state-led study, and the Wyoming Department of Environmental Quality plans to finish a draft report on the third and final portion in March.

### **Headline-maker**

The EPA started studying if fracking near Pavillion affected nearby groundwater, and the agency's 2011 draft report drawing a link between the two made headlines around the world. It was the first time a government study connected fracking to contaminated groundwater.

The EPA opened its study for public comment and planned to submit it to experts for a peer review.

Encana and the Wyoming Governor's Office rejoined that the EPA's science was unsound and said the agency's conclusions were unsubstantiated.

The EPA extended the comment period several times, effectively delaying the review and setting back final conclusions.

Then on June 20, 2013, the EPA announced it was dropping its study and turning it over to one of its detractors, the State of Wyoming. The EPA also said it would back off from the 2011 draft report's conclusions and not seek to put the study through a peer review, a step toward finalizing the findings.

At the time, the parties involved gave little explanation about why or how that decision came about. Documents state agencies released as part of public records requests and in-depth interviews with parties involved shed light on what led to the June 20, 2013, announcement.

Other requests The Ranger made for documents from state agencies and EPA still are pending.

In a recent interview outlining their version of events, state officials said the EPA was the first to suggest that Wyoming take over the study. Documents released recently following records requests verify pieces of the state's story.

### **Who asked whom?**

The governor's office contends it was the EPA that approached Wyoming about taking over the study.

The seed of the state's study was a sketch of a plan for an investigation DEQ staff composed, according to the governor's office natural resource policy director Jeremiah Rieman. It was e-mailed to other state agencies and the EPA on July 11, 2012.

"That's, for me, maybe a turning point for what we're discussing here," he said in an interview.

An e-mail, released following a public records request, fits the bill. DEQ groundwater section manager Kevin Frederick sent the e-mail July 11, 2012, to WOGCC staff, Rieman and an EPA official.

An attached PowerPoint presentation outlines a proposal for a study of groundwater near Pavillion to be led by DEQ that resembles the investigation the state is pursuing.

"When DEQ sent that draft work plan to EPA and (W)OGCC, it is that document that ultimately led us to the framework the public now sees today," Rieman said.

This was part of an effort by the state to suggest how it could do an investigation in addition to the EPA's work, Rieman said.

"No doubt in my mind that triggered their interest in what a more robust investigation could look like, and if it triggered a point in time for EPA to approach the state about our leadership I don't know," Rieman said.

The EPA continued steps in its investigation, and the state did not hear more about its proposal, Rieman said, for five or six months. Then, the EPA seemed interested in turning over the study to the state.

"In that January 2013 time frame, the EPA approached the state about what an investigation would look like that they could support," Rieman said. "Our framework became the starting point."

E-mails released following public records requests to state agencies show a back and forth discussion between the EPA and staff of the DEQ, WOGCC and governor's office about a state-led investigation going back from June 2013 at least to January of that year.

Public records requests to the EPA, DEQ and the governor's office for earlier communications still are being processed.

According to Rieman and other recently released documents, Encana joined the conversation in March.

All parties publicly announced the decision June 20, 2013.

Rieman was clear about who on the state's side chose to take on the study.

"The governor and I worked very closely on this," he said. "I worked at the governor's direction, but the governor ultimately gets to make that decision."

E-mails provided after public records requests show a set of DEQ and WOGCC staffers were involved for several months in shaping the planning document, but Rieman coordinated the state's side of the discussion.

On the EPA's side, Rieman said, Bob Sussman, then a senior policy council, Sarah Palone, then deputy associate administrator for intergovernmental relationships, and Jim Martin, then the EPA's Region 8 Administrator were the main people involved.

### **Agency reasoning**

The EPA so far has not provided details of the agency's thinking before its decision to pursue turning the investigation to the state, made by January 2013.

EPA spokesman Rich Mylott said Wyoming first brought up the idea of state agencies performing some investigation, but Mylott was unclear whether the state asked to take over the investigation and collect more information for it or asked to add to the EPA's study.

"My understanding is that representatives of the State indicated an interest in conducting additional assessments," Mylott said.

He did not reply to requests for clarification.

As to when the EPA decided to stop its study and let the state take over, Mylott pointed to June 20, 2013, as the date the decision was announced. He provided few details, but his version does not conflict with the timeline of discussions in the first half of 2013 the state and e-mails portray.

"Clearly there were discussions leading up to the announcement," he said. "The announcement itself was made June 20."

Mylott was not sure who at the EPA made the decision to stop its study. He did point out Jim Martin was the EPA Region 8 administrator.

"He was ... regional admin at the office at that time. That's a fact that's out there," Mylott said.

He acknowledged other agency staffers were involved, but he did not know who.

*Correction: This story should have said Jeremiah Rieman works as the natural resource policy director in the Wyoming Governor's Office.. The correction was made Dec. 10.*

